

REMARKS

Claims 1-8 are pending in this application. Claims 1-4 have been amended, and no new matter is introduced thereby.

Priority

Reference to the prior application was submitted in the Declaration and Power of Attorney for this application upon filing in the U.S. National Stage, and the information has been recognized by the Office on the first Filing Receipt and thus the specification is hereby amended to include specific reference to the priority application.

IDS

Applicants herewith submit an IDS with a copy of reference C4 (Verghese et al., *J. Mol. Cell Cardiol.*, 12 (989) S61), which was previously provided to the Examiner. Applicant will be providing copies of any other material references as soon as available.

Claim Objections

Claims 1, 5 and 8 are objected to for containing non-elected subject matter. Applicants respectfully traverse this claim objection as set forth below.

As of the office action dated June 12, 2008, the Examiner has found the application to contain multiple inventions, from which Applicants chose the invention of Group I (claims 1-8) drawn to products of Formula I. A species election was also required by the Examiner, and made by the Applicant. Claims drawn to non-elected inventions have been cancelled, and only claims of Group I are pending at this time.

In the present office action, the Examiner has stated that claims 1, 5 and 8 contain non-elected subject matter, in that compounds of Formula I which are not the elected species are present in the claims. The Examiner is referred to Section 806.04 of the MPEP, and its reference

to 37 C.F.R. §1.146 *Election of Species*. “In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable.” (emphasis added).

Thus, claims 1, 5 and 8 may properly contain subject matter besides that of the elected species and it is not viewed as proper to require these claims to be amended to only encompass the elected species, since, as it is submitted herein, all pending claim rejections have been overcome, and the generic claim is now allowable. The Examiner is urged to reconsider and withdraw this objection.

Rejection Under 35 U.S.C. §112, First Paragraph

Claims 1, 5 and 8 are rejected as being non-enabled for the term “solvate.” Applicants have amended the claims to remove this word, and respectfully request reconsideration and withdrawal of this rejection.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1, 5 and 8 are rejected as being indefinite for containing the phrase “their pharmaceutically acceptable salts, ... or N-oxides,” as the Examiner believes there is potential confusion as to whether the claim refers to a mixture of the compound and any of the listed other materials.

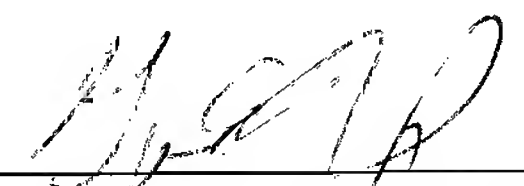
Applicants have amended the claims as suggested by the Examiner to resolve any potential confusion, and respectfully request reconsideration and withdrawal of the rejection.

Conclusion

Applicants respectfully submit that the pending claims are allowable, and request a Notice of Allowance at this time. Authorization is hereby given to charge any fees deemed to be due in connection with this Response to Deposit Account No. 50-0912.

Respectfully submitted,

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